

1
2
3
4
5
6
7
8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 In re:) Civil No.11md2258 AJB (MDD)
12)
13 SONY GAMING NETWORKS AND) ORDER RE APPOINTMENT OF LIAISON
14 CUSTOMER DATA SECURITY) COUNSEL AND THE PLAINTIFFS'
BREACH LITIGATION) STEERING COMMITTEE AND NOTICE
OF STATUS CONFERENCE

15
16 On October 13, 2011, the Court held a Status Conference in this case with counsel for the
17 various plaintiffs, and defendant. The Court and counsel discussed a process for appointment for Liaison
18 Counsel and the Plaintiffs' Steering Committee ("PSC") including a briefing schedule for nominations
19 and objections. That process is now complete, and based thereon, it is hereby ordered as follows:

20 **1. APPOINTMENT OF PLAINTIFFS' LIAISON COUNSEL**

21 A. The Court hereby appoints the following attorneys to the position of Plaintiffs' Co-
22 Liaison Counsel:

23 **Timothy Gordon Blood**

Gayle M. Blatt

24 Blood Hurst & O'Reardon LLP

Casey Gerry Schenk Francavilla Blatt & Penfield

25 600 B Street, Suite 1550

110 Laurel Street

26 San Diego, CA 92101

San Diego, CA 92101

27 (619) 338-1100

(619) 238-1811

1 B. Plaintiffs' Co-Liaison Counsel are charged with the following administrative functions in
2 addition to those functions required of PSC members as set forth in Section 2 below, as
3 Co-Liaison Counsel are members of the PSC. At a minimum, Plaintiffs' Co-Liaison
4 Counsel have the following responsibilities:

- 5 1. To receive and distribute pleadings, orders, and motions on behalf of all Plain-
6 tiffs;
- 7 2. To coordinate service and filings;
- 8 3. Periodically to review the attorney service list on the Court's website, promptly
9 communicate necessary revisions to the Clerk and effectuate required revisions in
10 accordance with direction from the Clerk;
- 11 4. To coordinate, establish or maintain a document repository, real or virtual, to be
12 available to all participating plaintiffs' counsel;
- 13 5. To maintain complete files with copies of all documents served by or upon them
14 in hard copy or electronic form. Co-Liaison Counsel will make such files avail-
15 able at reasonable hours to Plaintiffs' counsel of record upon request;
- 16 6. To receive orders and notices from the Judicial Panel on Multi-District Litigation
17 pursuant to Rule 5.2(e) of the Panel's Rules of Procedure or from the Court on
18 behalf of all Plaintiffs;
- 19 7. To schedule and preside over meetings of the PSC as Co-Chairs; and
- 20 8. To carry out such other duties as the Court may order.

21 **2. PLAINTIFFS' STEERING COMMITTEE.**

22 A. The Court hereby appoints the following counsel¹ to the Plaintiffs' Steering Committee :

23 **Brian R. Strange**

Adam J. Levitt

24 Strange & Carpenter

Wolf Haldenstein Adler Freeman & Herz LLC

25 12100 Wilshire Blvd., Suite 1900

55 West Monroe Street, Suite 1111

26 Los Angeles, CA 90025

Chicago, Ill 60603

27 ¹ It is counsel who is appointed in this capacity and they are expected to participate individually,
28 and not through others in their respective firms, in discharging the duties set forth below as PSC
members.

1 **David A. McKay**

2 Herman Gerel, LLP

3 230 Peachtree Street, NW, Suite 2260

4 Atlanta, GA 30303-1515

Paul J. Geller

 Robbins Geller Rudman & Dowd, LLP

 120 E. Palmetto Park Road, Suite 500

 Boca Raton, FL 33432

6 **Ben Barnow**

7 Barnow and Associates, P.C.

8 One North LaSalle Street, Suite 4600

9 Chicago, IL 60602

10 B. The Court hereby charges the PSC with the following responsibilities:

11 1. General. The PSC will:

- 12 a. Determine and present to the Court and opposing parties the position of
- 13 the Plaintiffs on all coordinated matters arising during pretrial proceed-
- 14 ings;
- 15 b. Coordinate the initiation and conduct of discovery for the common benefit
- 16 of the Plaintiffs;
- 17 c. Submit, where needed, additional committees and counsel for designation
- 18 by the Court; and
- 19 d. Perform other such duties as may be incidental to the proper coordination
- 20 of Plaintiffs' pretrial activities.

21 2. Discovery. The PSC will:

- 22 a. Initiate, coordinate, and conduct all pretrial discovery on behalf of plain-
- 23 tiffs in all actions which are consolidated with the instant Multi-District
- 24 Litigation;
- 25 b. Develop and propose to the Court schedules for the commencement,
- 26 execution, and completion of all discovery on behalf of all personal injury
- 27 plaintiffs;

- 1 c. Cause to be issued in the name of all plaintiffs the necessary discovery
2 requests, motions, and subpoenas pertaining to any witnesses and docu-
3 ments needed to properly prepare for the trial of relevant issues. Similar
4 requests, notices, and subpoenas may be caused to be issued by the PSC
5 upon written request by an individual attorney in order to assist him/her in
6 the preparation of the pretrial stages of his/her client's particular claims;
- 7 d. Conduct all discovery in a coordinated and consolidated manner on behalf
8 of and for the benefit of all plaintiffs, in a fashion in keeping with practice
9 guidelines to be established in subsequent discovery plans or orders of
10 this Court.

11 3. Hearings and Meetings. The PSC will:

- 12 a. Call meetings of plaintiffs' counsel for any appropriate purpose, including
13 coordinating responses to questions of other parties or of the Court;
- 14 b. Initiate proposals, suggestions, schedules, or joint briefs, and any other
15 appropriate matter(s) pertaining to pretrial proceedings;
- 16 c. Examine witnesses and introduce evidence at hearings on behalf of
17 plaintiffs;
- 18 d. Act as spokesperson for all plaintiffs at pretrial proceedings and in
19 response to any inquiries by the Court, subject to the right of any plain-
20 tiff's counsel to present non-repetitive, individual or different positions.

21 4. Miscellaneous. In addition, the PSC will:

- 22 a. Submit and argue any verbal or written motions presented to the Court or
23 Magistrate Judge on behalf of the PSC as well as oppose, when necessary,
24 any motions submitted by the defendants or other parties that involve
25 matters within the sphere of the responsibilities of the PSC;
- 26 b. Negotiate and enter into stipulations with defendants regarding this
27 litigation. All such stipulations entered into by the PSC, except for purely
28 administrative details such as scheduling, shall be submitted to the Court

1 for approval and will not be binding unless and until the Court has ratified
2 the stipulation. Any attorney not in agreement with a non-administrative
3 stipulation may file with the Court a written objection thereto within
4 fourteen (14) business days after he or she knows or reasonably should
5 have become aware of the stipulation. Failure timely to object shall be
6 deemed a waiver, and the stipulation shall bind the dilatory party;

7 c. Explore, develop and pursue all settlement options pertaining to any claim
8 or portion thereof of any case filed in this litigation;

9 d. Maintain adequate files of all pretrial matters and have them available,
10 under reasonable terms and conditions, for examination by plaintiffs or
11 their attorneys;

12 e. Prepare periodic status reports summarizing the PSC's work and progress.
13 These reports will be submitted to the Court, for in camera review, by
14 Plaintiffs' Co-Liaison Counsel, who will promptly distribute copies to the
15 other plaintiffs' attorneys;

16 f. Perform any task necessary and proper for the PSC to accomplish its
17 responsibilities as defined or authorized by the Court's orders;

18 g. Perform such other functions as may be expressly authorized by further
19 orders of this Court;

20 5. Other Provisions Related to Plaintiffs' Co-Liaison Counsel and the PSC:

21 a. The term of appointment.

22 i. The appointment of Co-Liaison Counsel and the PSC members
23 will be reviewed annually by the Court at a time and in a manner
24 approved by the Court.

25 b. Privileged Communications.

26 i. The Court recognizes that cooperation among counsel and the
27 parties is essential for the orderly and expeditious resolution of the
28 litigation. The communication, transmission or dissemination of

1 information of common interest among Plaintiffs' counsel will be
2 protected by the attorney-client privilege, the protections afforded
3 by the attorney work product doctrine, the protections afforded to
4 material prepared for litigation or any other privilege or protection
5 from disclosure to which a party may otherwise be entitled.

6 c. Plaintiffs' Co-Liaison Counsel and PSC members will be entitled to seek
7 reimbursement for reasonable fees and costs expended in the performance
8 of their duties and time in a manner approved by the Court.

9 i. Only time spent on matters common to all claimants in MDL 2258
10 will be considered in determining fees. No time spent on develop-
11 ing or processing any case for an individual client (claimant) will
12 be considered or should be submitted.

13 ii. Counsel will keep contemporaneous records of their time and
14 expenses devoted to this matter in a uniform manner. Those re-
15 cords must reflect the date the legal services are rendered, the
16 nature of service rendered, the provider of the services, the hourly
17 rate applied, and the specific matter in which the services were
18 rendered and the hours expended. Time will be entered in 10th-of-
19 an-hour increments, (e.g., 1-6=.10 hours). Failure to do so may
20 result in time being disallowed.

21 6. Further Orders:

22 a. The PSC is ordered to participate in a telephonic status conference on
23 ***December 21, 2011 at 9:00 a.m.*** Co-Liaison Counsel will make arrange-
24 ments for the conference call and advise all counsel appearing in the case.
25 No later than ***December 19, 2011***, Co-Liaison Counsel will submit a list of
26 all persons expected to be on the call. Defense counsel will not participate
27 in this conference, and the record of the conference will not be public as
28

1 the conference will deal with purely administrative matters concerning the
2 operation of the PSC.

3 b. The PSC is directed to confer and discuss the following issues in advance
4 of the Status Conference:

- 5 i. The possible filing of a Consolidated Mater Complaint for this
6 case;
- 7 ii. A plan for managing and accounting for the advanced costs in this
8 case;
- 9 iii. Guidelines and limitations for travel expenses;
- 10 iv. The interval and manner of reporting of time and expenses for all
11 activities performed by counsel as authorized by the PSC to the
12 Court.

13 IT IS SO ORDERED.

14
15 DATED: November 29, 2011

16
17
18
19 
20

21 Hon. Anthony J. Battaglia
22 U.S. District Judge
23
24
25

26 sony/order granting psc and lc
27
28